

January 5, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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Ms. Kristi A. Taylor
Assistant City Attorney
Neiman & Barnes, L.L.P.
P.O. Box 777
Lewisville, Texas 75067

OR99-0002

Dear Ms. Taylor:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 120790.

The Lewisville Police Department (the "department"), which you represent, received a request for "any information," concerning a specified police report. In response to the request, you submit to this office for review the records which you assert are responsive. You state that "[t]he first page of the offense report has been released to the requestor,"¹ as well as "all documents that were filed with the Court."² You assert that the remaining information is excepted from required public disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.108 of the Government Code reads as follows, in part:

¹As you have noted, basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. See Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

²We agree that documents which are part of the public record cannot be withheld under section 552.108 of the Government. See *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (orig. proceeding).

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or (3) it is information that: (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

...

(c) This section does not except from the requirements of section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108(a)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Gov't Code § 552.108.

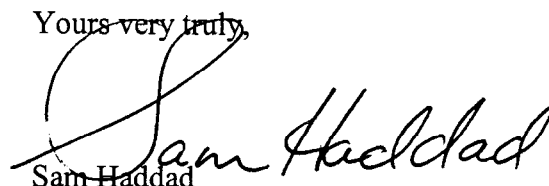
You state section 552.108 is applicable to the submitted information, because "[t]his offense report involves an investigation that is pending prosecution in the Lewisville Municipal Court." As it appears that the requested records relate to a pending criminal investigation, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. Therefore, except as noted above, the remaining information may be withheld pursuant to section 552.108(a)(1). You may choose, however, to release all or part of the information at issue that is not otherwise confidential by law.³ Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon

³We note that some of the information in the submitted documents is also confidential by law. Therefore, if you choose to waive your right to withhold the information under section 552.108, we urge you to exercise caution in releasing the information to the public. *See* Gov't Code §§ 552.352 (distribution of confidential information is criminal offense), 552.130 (confidentiality of motor vehicle operator's or driver's license).

as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large initial "S" that loops around the first part of the name.

Sam Haddad

Assistant Attorney General
Open Records Division

SH/nc

Ref: ID# 120790

Enclosures: Submitted documents

cc: Mr. David Hogue
2130 Dover Road
Carrollton, Texas 75067
(w/o enclosures)